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January 11, 2010

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United States Environmental Protection Agency
Region IX, Southern California Field Office
600 Wilshire Avenue, Suite 1420
Los Angeles, California 90017

**Re: Yosemite Creek Superfund Site, San Francisco, CA
Response to 104(e) Information Request**

This letter is sent in response to the October 15, 2009, requests for information ("RFI") of the United States Environmental Protection Agency ("EPA") to McKesson Corporation ("McKesson") with respect to the Yosemite Creek Superfund site (the "Site"). Subject to both the general and specific objections noted below, and without waiving these or other available objections or privileges, McKesson submits the following in response to the RFI, in compliance with the January 11, 2010, due date that EPA has established.

In responding to the RFI, McKesson has undertaken a diligent and good faith search for, and review of, relevant documents and information in its possession, custody or control. The RFI, however, seeks a massive amount of information that is not relevant to either the Site or to the alleged contamination at the Site. For example, while we understand the nexus between McKesson and the former Bay Area Drum State Superfund Site at 1212 Thomas Avenue in San Francisco, California (the "BAD Site"), certain RFI questions seek information regarding facilities other than the BAD Site, including *all* facilities in California and *all* facilities outside California that shipped drums or other containers to *any* location in the entire state of California. These other facilities throughout California and the United States have no nexus to the Site. Because such questions are not relevant to the Site, they are beyond the scope of EPA's authority as set forth in Section 104(e)(2)(A) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") (EPA may request information "relevant to . . . [t]he identification, nature, and quantity of materials which have been . . . transported to a . . . facility").

The RFI also defines "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, dichlorodiphenyltrichloroethane ("DDT"), chlordane, dieldrin, and polychlorinated biphenyls ("PCBs")." Certain RFI requests, however, also seek information regarding hazardous substances more broadly defined. Such requests go well beyond the specific chemicals for which EPA claims to have evidence of a release or threatened release to the environment at the Site and are not relevant to the Site pursuant to Section 104(e)(2)(A) of CERCLA; thus McKesson has, for the most part, limited its review of documents and information to the COCs identified by EPA as being relevant to the Site.

As you are aware, the California Department of Toxic Substances Control ("DTSC") conducted an extensive investigation of the BAD Site and McKesson in connection with it. DTSC's investigation included an information request to McKesson, and it is our understanding that the DTSC files include McKesson's Response to DTSC's information request, among other documents. We understand that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. Thus, the focus of McKesson's identification, review and retrieval of documents has been on documents and information relevant to the Site not been previously provided to EPA, DTSC or another governmental agency.

Additionally, in 2001, McKesson entered into an "Internal Cash-Out and Indemnity Agreement Between and Amongst Certain Members of the Bay Area Drum *Ad Hoc* PRP Group". This agreement, while later in time, was essentially the same in intent as the earlier "De Minimis Buy Out and Indemnity Agreement Between the Bay Area Drum *Ad Hoc* PRP Group and Certain De Minimis PRPs", entered into in 1995.

As you know from Mr. van Aelstyn's June 30, 2008, letter to Michael Massey of the EPA, the Bay Area Drum *Ad Hoc* PRPs are providing McKesson with a defense to EPA's claims with respect to the Yosemite Creek Site. The passage of 17 years since the DTSC's BAD Site investigation and 9 years since the Internal Cash-Out and Indemnity Agreement ended McKesson's participation in issues related to the Bay Area Drum site and the ability of McKesson to provide information in response to the RFI regarding BAD Site activities since that time. It is also noteworthy the McKesson is, at most, a *de minimis* PRP. EPA policies and guidelines regarding the same should be considered before requesting that McKesson undertake onerous discovery burdens. See, for example, Transmittal of Guidance on Use and Enforcement of CERCLA Information Requests and Administrative Subpoenas, dated August 25, 1988, Section II.B., fn. 9 re overbreadth. Nonetheless, McKesson notes that some responses contained in this letter may supplement or add information to that contained in its 1992 response to the DTSC RFI. In supplying such additional information, McKesson believes it has demonstrated a good faith effort to comply with the EPA's RFI to the extent required under 42 U.S.C § 9604(e).

GENERAL OBJECTIONS

McKesson asserts the following general privileges, protections and objections with respect to the RFI and each information request therein.

1. McKesson asserts all privileges and protections it has in regard to the documents and other information sought by EPA, including the attorney-client privilege, the attorney work product doctrine, all privileges and protections related to materials generated in anticipation of litigation, the settlement communication protection, the confidential business information ("CBI") and trade secret protections, and any other privilege or protection available to it under law. In the event that a privileged or protected document has been inadvertently included among the documents produced in response to the RFI, McKesson asks that any such document be returned to McKesson immediately and here states for the record that it is not waiving any available privilege or protection as to any such document.

In the event that a document containing CBI or trade secrets has been inadvertently included among the numerous documents provided in response to the RFI, McKesson requests that any such documents be returned to McKesson immediately so that McKesson may resubmit the document in accordance with the applicable requirements for the submission of Confidential Information.

2. McKesson objects to any requirement to produce documents or information already in the possession of a government agency, including, but not limited to, DTSC, or already in the public domain. As noted above, DTSC conducted an extensive investigation of the BAD Site and McKesson in connection with it. DTSC's investigation included an information request to McKesson Chemical Company and the DTSC files include McKesson's Response to DTSC's information request. EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. Notwithstanding this objection, and without waiving it, McKesson may produce certain information or documents in its possession, custody, or control that it previously provided to or obtained from government agencies that may contain information responsive to the RFI.
3. McKesson objects to Instruction 4 to the extent it seeks to require McKesson, if information responsive to the RFI is not in its possession, custody, or control, to identify any and all persons from whom such information "may be obtained." McKesson is aware of no obligation that it has under Section 104(e) of CERCLA to identify all other

persons who may have information responsive to EPA information requests and is not in a position to identify all such persons who may have such information.

4. McKesson objects to Instruction 5 on the ground that EPA has no authority to impose a continuing obligation on McKesson to supplement these responses. McKesson will, of course, comply with any lawful future requests that are within EPA's authority.
5. McKesson objects to Instruction 6 in that it purports to require McKesson to seek and collect information and documents in the possession, custody or control of individuals other than McKesson. EPA lacks the authority to require McKesson to seek information not in its possession, custody or control.
6. McKesson objects to the RFI's definition of "document" or "documents" in Definition 3 to the extent it extends to documents not in McKesson's possession, custody, or control. McKesson disclaims any responsibility to search for, locate, and provide EPA copies of any documents "known by McKesson] to exist" but not in McKesson's possession, custody, or control.
7. McKesson objects to the RFI's definition of "Facility" and "Facilities" in Definition 4 because the terms are overbroad to the extent that they extend to facilities with no connection to either the Site or the BAD Site. Moreover, the term "Facilities" as defined in the RFI is confusing and unintelligible as the term is defined as having separate meanings in Definition 4 and Request No. 3.
8. McKesson objects to the definition of "identify" in Definition 7 to the extent that the definition encompasses home addresses of natural persons. Subject to this objection, current McKesson employees and any other natural persons are identified by name and corporate address. McKesson requests that any contacts with McKesson employees identified in these responses or the related documents be initiated through counsel for McKesson.
9. McKesson objects to the definition of "you," "Respondent," and "the company" in Definition 14 because the terms are overbroad and it is not possible for McKesson to answer questions on behalf of all the persons and entities identified therein. Notwithstanding this objection, and without waiving it, McKesson has undertaken a diligent and good faith effort to locate and furnish documents and information in its possession, custody, and control that are responsive to the RFI.

10. McKesson objects, on the basis of unreasonable and undue burden, to EPA's requests that McKesson provide EPA separately the same information that is contained in documents being furnished by McKesson in response to the RFI. Where documents have been provided in connection with a response, information sought by EPA in the corresponding request for information that is set forth in those documents is not furnished separately.

RESPONSES TO OCTOBER 15, 2009 EPA INFORMATION REQUESTS

1. *Describe generally the nature of the business conducted by Respondent and identify the products manufactured, formulated, or prepared by Respondent throughout its history of operations.*

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying each of the products handled by McKesson is not feasible due to McKesson's long history, incomplete records, number of sites involved, and number of products involved.

Notwithstanding the foregoing, and without any waiver of its objections, McKesson provides the following information. McKesson's predecessors in interest date back to the 1800s. If necessary, McKesson can provide further information regarding historical corporate forms.

Until 1986, McKesson Chemical Company ("MCC") was an unincorporated operating division of McKesson. On or about November 1, 1986, McKesson sold substantially all of the assets of MCC to Pakhoed Investerings BV, a Netherlands corporation, which subsequently transferred these assets to Univar Corporation. As of 1986, MCC had at least 76 facilities in the United States, 5 of which were located in California, but only one of which was located in the Bay Area. MCC was a wholesale chemicals distributor, dealing in commercially useable, virgin chemicals. Operations included chemical repackaging and distribution. **Attachment A** hereto is a document that generally describes chemical operations at all MCC sites and is not specific to the operations in the San Francisco area. From a review of **Attachment A**, as well as 1985 records of the EPA's and 1990 records of the California Regional Water Quality Control Board's investigations of the Union City facility (**Attachment B** hereto), plus available information concerning the operations of the MCC Union City facility (**Attachment C** hereto), it does not appear that the COCs in this case (lead, zinc, mercury, dichlorodiphenyltrichloroethane ("DDT"), chlordane,

dieldrin, and polychlorinated biphenyls ("PCBs")) were handled at that facility. The only chemicals found to be present in the soil/groundwater during remediation of the Union City facility were 1,1-dichloroethene; 1,1,1-trichloroethane; trichloroethene; tetrachloroethane; and acetone. Additional chemicals handled at the Union City facility were sodium hypochlorite; sulfur dioxide; hydrochloric acid; sulfuric acid; nitric acid; phosphoric acid; isopropyl alcohol; methanol; muriatic acid; toluol; nitromethane; and 1,1,2-trichlorotrifluoroethane. Metals found in the soil/groundwater were arsenic; barium; cadmium; chromium; copper; iron; lead; manganese; mercury; selenium; silver; and zinc. There is, however, no evidence that these metals were materials handled or repackaged at the facility, or contained in any drums shipped offsite for recycling.

McKesson MCC's operations in the Bay Area can only be documented to 1968, before which no information can be located, although it is believed that MCC operated a San Leandro and possibly an Oakland facility before 1968. In 1968, MCC acquired F.M. Speekman Company ("Speekman"), integrating Speekman's San Francisco, CA, chemical distribution operations with those of MCC. Upon completion of the acquisition, the Speekman facility in San Francisco housed a three-tank repacking operation.

In 1971, MCC built a facility in Union City, California ("Union City facility"), which replaced the Speekman facility in San Francisco. From 1971 until 1986, when operations ended, the Union City facility operated as a: (1) warehouse and distribution point for supplier-packaged and MCC repackaged chemical products; (2) chemical repackaging facility; and (3) bulk storage facility.

The Union City facility ended operations on 1 November 1986, when McKesson sold substantially all of its MCC assets, as described above. Since then, McKesson has conducted closure activities at the Union City facility under the supervision of the DTSC and Union City Fire Department, and their requirements. Although the Union City facility itself was not sold to VWR, but retained by McKesson for remediation, a number of Union City documents were in fact transferred to Univar. This has complicated McKesson's search for records responsive to these RFIs. In addition, despite a diligent search, McKesson has not found any operating records concerning the former Speekman facility in San Francisco.

- 2. *Provide the name (or other identifier) and address of any facilities where Respondent carried out operations between 1940 and 1988 (the "Relevant Time Period") and that:***
 - a. *ever shipped drums or other containers to the BAD Site for recycling, cleaning, reuse, disposal, or sale.***
 - b. *are/were located in California (excluding locations where ONLY clerical/office work was performed);***

- c. *are/were located outside of California and shipped any drums or other containers to California for recycling, cleaning, reuse, disposal, or sale (for drums and containers that were shipped to California for sale, include in your response only transactions where the drums and containers themselves were an object of the sale, not transactions where the sole object of the sale was useful product contained in a drum or other container).*

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, in addition to facilities with a connection to the BAD Site, Request No. 2 purports to also seek information regarding *any* facility located in California (excluding locations where ONLY clerical/office work was performed) and *any* facility located outside of California that shipped drums or other containers to *any* location in California, even to locations other than the BAD Site. These other facilities have no nexus with the BAD Site, and thus this request seeks information that is clearly not relevant to the Site.

Notwithstanding the foregoing, and without waiving its objections, McKesson is providing EPA with certain information and documents that contain information related to McKesson's Facilities that shipped drums or other containers to the BAD Site. This response is based on interviews of former MCC employees¹, as well as a review of the MCC financial records (including repackaging requests, purchase orders, bills of sale, bills of lading and invoices) from 1971 through November 1986, the originals of which are in the possession of Univar., and certain operations records from the Union City facility which are in the possession of McKesson Corporation.

At the time of McKesson's initial response to the DTSC's September 1, 1992, request for information concerning the BAD Site, available information indicated that McKesson used the drum reconditioning services of Myers Container Corporation, but sent its drums to Myer's facilities in Emeryville and Oakland, and not to the BAD Site.

McKesson's records indicate that the Union City facility sent approximately 2,733 empty drums to Myers Container's East Bay facilities during 1985-86. The empty drums that were shipped

¹ Carl Piercy, Area Operations Manager and Repackaging Manager (1978-1986); Kurt Danziger, Operations Manager, Union City Facility (1984-86); Ken Wicks, Operations Manager, Union City Facility (1980-84); Boyd Stevenson, Operations Manager, Union City Facility (1977-1980); Jan Weiss, Operations Manager, Union City Facility (1974-1977); George Butter, Technical Director (1977-1984); Douglas Eisner, Technical Director (1978-1984); Robert Mowers, Branch Manager (1976-1980); Gary Hein, Purchasing Agent (1970-1976); and Everick Chong, Warehouseman and Repack Operator (1968-1986).

from Union City to Myers' East Bay sites originally contained virgin chemical products in the flammable category (e.g., methyl ethyl ketone, acetone and alcohol) or the solvent category (e.g., methylene chloride and perchloroethylene).

The empty drums that were shipped by MCC to Myers' East Bay sites did not contain any contents or residues. This conclusion is based on interviews of former MCC employees who off-loaded returnable drums returned from customers and participated in the loading of drums onto trucks operated by Myers, or who oversaw such activities. These former employees stated that:

- (1) Returnable MCC drums were picked up from MCC customers by drivers employed by and trucks operated by MCC; and
- (2) Under MCC policy, MCC drivers were not permitted to pick up returnable drums from customers if the drum contained any product or residue.

Subsequently-produced Waymire documents, which are already in the possession of DTSC, appear to indicate that the drums which McKesson Chemical facility sent to Myers' East Bay facilities may have subsequently been sent by Myers to the Site in 1978-79 when Waymire Drum Company owned and operated it. The Waymire records indicate that McKesson purchased 3963 drums, which is presumed to be the same number as the drums sent to be reconditioned. The Waymire documentation does not include information concerning the original contents of the drums, nor whether or not the drums indicated contained any residues. A copy of the Waymire documentation is attached hereto as **Attachment D**, for the EPA's convenience.

In a good faith effort to provide EPA with as much information as McKesson can reasonably gather within the applicable time period, and without waiving its general objections and specific objections to this request, McKesson has also reviewed reasonably available documentation from its repackaging and bulk storage facility in Santa Fe Springs, California. Extant records show that drums from that facility were sent to local recycling companies, and not the BAD site. Thus, that facility and its history are irrelevant to the Site at issue, as well as to the BAD Site.

3. *Provide a brief description of the nature of Respondent's operations at each Facility identified in your response to Question 2 (the "Facillties") including:*
 - a. *the date such operations commenced and concluded; and*
 - b. *the types of work performed at each location over time, including but not limited to the industrial, chemical, or institutional processes undertaken at each location.*

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. In particular, but without limiting the generality of the foregoing objection, McKesson objects to the request in (b.) that it describe "types of work performed at each location over time" Without an identification by EPA of the types of work to which it refers, it would be virtually impossible, given the broad nature of possible work at various facilities, to describe each and every type of work that was performed at any facility. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site. Notwithstanding the foregoing, and without any waiver of its objections, McKesson is providing EPA with certain information and documents that contain information related to McKesson's Facilities from which drums or other containers were ultimately shipped to the BAD Site.

(a) Please see McKesson's responses to RFI Nos. 1 and 2. 1968 to 1986.

(b) Please see McKesson's responses to RFI Nos. 1 and 2. Chemical repackaging, distribution, and bulk storage.

4. For each Facility, describe the types of records regarding the storage, production, purchasing, and use of Substances of Interest ("SOI") during the Relevant Time Period that still exist and the periods of time covered by each type of record.

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome to the extent it seeks to require McKesson to describe "types of records."

McKesson further objects to Request No. 4 insofar as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that are not relevant to the Site; thus McKesson has largely and necessarily limited its review of documents and information to the COCs identified by EPA.

Notwithstanding the foregoing, and without any waiver of its objections, McKesson is providing EPA with certain information and documents that contain information related to McKesson's Union City facility, from which drums or other containers were ultimately sent to the BAD Site.

McKesson has not found any evidence to the effect that any of the SOIs was stored, produced, purchased, or used, during the period for which information exists. Please see McKesson's responses to RFI Nos. 1 and 2.

- 5. Did Respondent ever (not just during the Relevant Time Period) produce, purchase, use, or store one of the COCs (including any substances or wastes containing the COCs) at any of the Facilities? State the factual basis for your response.***

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit whatsoever, as well as any nexus between COCs at McKesson's Facilities and the BAD Site, Request No. 5 seeks information relating to McKesson's Facilities that is not relevant to contamination at the Site. Without waiving its objections, McKesson responds that it has not found any evidence that any of the COCs was purchased, used, repackaged or stored at its Union City facility during the period for which information exists. See response to RFI Nos. 1 and 2.

- 6. If the answer to Question 5 is yes, identify each COC produced, purchased, used, or stored at each Facility.***

RESPONSE:

No response required.

- 7. If the answer to Question 5 is yes, identify the time period during which each COC was produced, purchased, used, or stored at each Facility.***

RESPONSE:

No response required.

- 8. If the answer to Question 5 is yes, identify the average annual quantity of each COC produced, purchased, used, or stored at each Facility.***

RESPONSE:

No response required.

- 9. *If the answer to Question 5 is yes, identify the volume of each COC disposed by the Facility annually and describe the method and location of disposal.***

RESPONSE:

No response required.

- 10. *Did Respondent ever (not just during the Relevant Time Period) produce, purchase, use, or store hydraulic oil or transformer oil at any of the Facilities? State the factual basis for your response to this question.***

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit whatsoever, as well as any nexus between hydraulic fuel or transformer oil at McKesson's Facilities and the BAD Site, Request No. 10 purports to seek information relating to McKesson's Facilities that is not relevant to contamination at the Site. Without waiving its objections, McKesson responds that it has not found any evidence that either hydraulic oil or transformer oil was produced, purchased, used, repackaged or stored at its Union City facility during the period for which information exists. See response to RFI Nos. 1 and 2.

- 11. *If the answer to Question 10 is yes, identify each specific type of hydraulic oil and transformer oil produced, purchased, used, or stored at each Facility.***

RESPONSE:

No response required.

- 12. *If the answer to Question 10 is yes, identify the time period during which each type of hydraulic oil and transformer oil was produced, purchased, used, or stored.***

RESPONSE:

No response required.

- 13. *If the answer to Question 10 is yes, identify the average annual quantity of each type hydraulic oil and transformer oil purchased, produced, used, or stored at each Facility.***

RESPONSE:

No response required.

- 14. If the answer to Question 10 is yes, identify the volume of each hydraulic oil and transformer oil disposed by the Facility annually and describe the method and location of disposal.*

RESPONSE:

No response required.

- 15. Provide the following information for each SOI (SOIs include any substance or waste containing the SOI) identified in your responses to Questions 5 and 10:*

- a. Describe briefly the purpose for which each SOI was used at the Facility. If there was more than one use, describe each use and the time period for each use;*
- b. Identify the supplier(s) of the SOIs and the time period during which they supplied the SOIs, and provide copies of all contracts, service orders, shipping*
- c. manifests, invoices, receipts, canceled checks and other documents pertaining to the procurement of the SOI;*
- d. State whether the SOIs were delivered to the Facility in bulk or in closed containers, and describe any changes in the method of delivery over time;*
- e. Describe how, where, when, and by whom the containers used to store the SOIs (or in which the SOIs were purchased) were cleaned, removed from the Facility, and/or disposed of, and describe any changes in cleaning, removal, or disposal practices over time.*

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit whatsoever, as well as any nexus between COCs at McKesson's Facilities and the BAD Site, Request No. 15 seeks information relating to McKesson's Facilities that is not relevant to contamination at the Site. Without waiving its objections, McKesson refers EPA to its response to RFI Nos. 1 and 2, and suggests that no response is required, as McKesson has not found any evidence that any of the SOIs was stored, produced, purchased, or used at the Union City facility during the period for which information exists.

- 16. For each SOI delivered to the Facilities in closed containers, describe the containers, including but not limited to:**
- a. the type of container (e.g. 55 gal. drum, tote, etc.);***
 - b. whether the containers were new or used; and***
 - c. if the containers were used, a description of the prior use of the container.***

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit whatsoever, as well as any nexus between COCs at McKesson's Facilities and the BAD Site, Request No. 16 seeks information relating to McKesson's Facilities that is not relevant to contamination at the Site, and suggests that no response is required, as McKesson has not found any evidence that any of the SOIs was stored, produced, purchased, or used, during the period for which information exists. See response to RFI Nos. 1 and 2.

- 17. For each container that Respondent used to store a SOI or in which SOIs were purchased ("Substance-Holding Containers" or "SHCs") that was later removed from the Facility, provide a complete description of where the SHCs were sent and the circumstances under which the SHCs were removed from the Facility. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.**

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. McKesson further objects to Request No. 17 as it assumes that each SHC is somehow individually identified, tracked, and used and reused by the same entity throughout the life of the SHC. There is no evidence that BAD operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 17 seeks information that does not exist.

McKesson further objects to Request No. 17 insofar as it seeks information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and, and which are not relevant to the Site;

thus McKesson has largely and necessarily limited its review of documents and information to the COCs identified by EPA.

Additionally, as stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Request No. 17, however, seeks information regarding SHCs that were sent to sites other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, McKesson is providing EPA with certain information and documents that contain information related to its Union City facility, from which drums or other containers were ultimately sent to the BAD Site.

No evidence exists that SOIs were purchased, stored, or used at that facility. See response to RFI Nos. 1 and 2.

- 18. For each SHC that was removed from the Facility, describe Respondent's contracts, agreements, or other arrangements under which SHCs were removed from the Facility, and identity [sic] all parties to each contract, agreement, or other arrangement described. Distinguish between the Relevant Time Period and the time period since 1988.***

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Request No. 18, however, seeks information regarding SHCs that were sent to sites other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, McKesson is providing EPA with certain information and documents that contain information related to McKesson's Union City facility, from which drums or other containers were ultimately sent to the BAD Site. McKesson has found no evidence that SHCs were stored or removed from that facility. See response to RFI Nos. 1 and 2.

- 19. *For each SHC, provide a complete explanation regarding the ownership of the SHC prior to delivery, while onsite, and after it was removed from the Facility. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.***

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. McKesson further objects to Request No. 19 as it assumes that each SHC is somehow individually identified, tracked, and used and reused by the same entity throughout the life of the SHC. There is no evidence that BAD operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 19 seeks information that does not exist. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Request No. 18, however, seeks information regarding SHCs that were sent to sites other than the BAD Site.

Without waiving its objections, McKesson responds that it has found no evidence that SHCs were ever stored at or removed from its Union City facility, and refers EPA to its response to RFI Nos. 1 and 2.

- 20. *Identify all individuals who currently have, and those who have had, responsibility for procurement of Materials at the Facilities. Also provide each individual's job title, duties, dates performing those duties, current position or the date of the individual's resignation, and the nature of the information possessed by each individual concerning Respondent's procurement of Materials.***

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 20 purports to seek information relating to McKesson's Facilities that is not relevant to contamination at the Site. McKesson further objects to Request No. 20 insofar as it seeks information regarding procurement of "Materials" at facilities other than the BAD Site or those facilities which may have sent drums or other containers to the BAD Site, and thus goes beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment. McKesson also objects to the phrase "the nature of the information

possessed by each individual concerning Respondent's procurement of Materials" as being vague, ambiguous, and unintelligible.

Without waiving its objections, McKesson refers EPA to its response to RFI Nos. 1 and 2, and, more particularly, fn. 1 hereto, which includes McKesson employees who had responsibility for procurement of Materials, and the dates of such responsibility.

21. Describe how each type of waste containing any SOIs was collected and stored at the Facilities prior to disposal/recycling/sale/transport, including:

- a. the type of container in which each type of waste was placed/stored;***
- b. how frequently each type of waste was removed from the Facility; Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.***

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Request No. 21 seeks information regarding collection and storage of "any SOIs" at facilities other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Without waiving its objections, McKesson responds that no evidence that SOIs were ever present at its Union City facility has been found, and refers EPA to its response to RFI Nos. 1 and 2, as well as to **Attachment B** hereto, which evidences the investigation of both the EPA and the Regional Water Quality Board into constituents found at the Union City Facility.

22. Describe the containers used to remove each type of waste containing any SOIs from the Facilities, including but not limited to:

- a. the type of container (e.g. 55 gal. drum, dumpster, etc.);***
- b. the colors of the containers;***
- c. any distinctive stripes or other markings on those containers;***
- d. any labels or writing on those containers (including the content of those labels);***
- e. whether those containers were new or used; and***
- f. if those containers were used, a description of the prior use of the container; Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.***

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. McKesson further objects to Request No. 22 as it assumes that each SHC is somehow individually identified, tracked, and used and reused by the same entity throughout the life of the SHC. There is no evidence that BAD operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 22 seeks information that does not exist.

As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Moreover, the RFI defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs. McKesson further objects to Request No. 22 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, McKesson has largely and necessarily limited its review of documents and information to the COCs identified by EPA. Additionally, McKesson objects to Request No. 22 as seeking information regarding containers used to remove each type of waste containing any SOIs from the Facilities and taken to *any* other place during *any* time. By removing any temporal limit whatsoever, as well as any nexus between COCs at McKesson's Facilities and the BAD Site, Request No. 22 seeks information relating to McKesson's Facilities that is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, McKesson is providing EPA with certain information and documents that contain information related to its Union City facility, from which drums or other containers were ultimately sent to the BAD Site. McKesson has not discovered any evidence that SOIs were removed from that facility. See response to RFI Nos. 1 and 2.

- 23. For each type of waste generated at the Facilities that contained any of the SOIs, describe Respondent's contracts, agreements, or other arrangements for its disposal, treatment, or recycling and identify all parties to each contract, agreement, or other arrangement described. State the ownership of waste containers as specified under each contract, agreement, or other arrangement described and the ultimate destination or use for such containers. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Moreover, the RFI defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs. McKesson further objects to Request No. 23 as it seeks information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, McKesson has limited its review of documents and information to the COCs identified by EPA.

Additionally, McKesson objects to Request No. 23 as it seeks information regarding waste generated at any Facilities that contained any SOIs and taken to *any* other place during *any* time. By removing any temporal limit whatsoever, as well as any nexus between COCs at McKesson's Facilities and the BAD Site, Request No. 23 seeks information relating to McKesson's Facilities that is not relevant to contamination at the Site.

Without waiving its objections, McKesson responds that it has not discovered any evidence that SOIs were part of any waste generated at its Union City facility, and refers EPA to its response to RFI Nos. 1 and 2.

- 24. Identify all individuals who currently have, and those who have had, responsibility for Respondent's environmental matters (including responsibility for the disposal, treatment, storage, recycling, or sale of Respondent's wastes and SHCs). Provide the job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning Respondent's waste management.***

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying all individuals who currently have, and those who have had, responsibility for McKesson's environmental matters at all of McKesson's Facilities, including those that have no nexus to the BAD Site, is not feasible due to long history of existence/operations, the number of McKesson's locations, and transfers of ownership. By removing any temporal limit whatsoever, as well as any nexus between COCs at McKesson's Facilities and the BAD Site, Request No.24

seeks information relating to McKesson's Facilities that is not relevant to contamination at the Site.

McKesson further objects to the phrase "the nature of the information possessed by such individuals concerning Respondent's waste management" as vague, ambiguous, and unintelligible. Without waiving its objections, McKesson refers EPA to its response to RFI Nos. 1 and 2, and particularly to fn. 1 hereto, which includes McKesson personnel with environmental responsibility. In addition, McKesson identifies Jean Mescher, McKesson's Director of Environmental Services since 1996.

25. Did Respondent ever purchase drums or other containers from a drum recycler or drum reconditioner? If yes, identify the entities or individuals from which Respondent acquired such drums or containers.

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying all drum recyclers or drum reconditioners from which McKesson has ever acquired such drums or containers is not feasible due to its long history of existence/operations, the number of locations, and the lack of records. By removing any temporal limit whatsoever, as well as any nexus between COCs at McKesson's Facilities and the BAD Site, Request No. 25 seeks information relating to McKesson's Facilities that is not relevant to contamination at the Site. Without waiving its objections, McKesson responds that no documentation has been found for the Union City facility concerning the purchase of drums or other containers from a drum recycler or reconditioner. Please see McKesson's responses to RFI Nos. 1 and 2.

26. Prior to 1988, did Respondent always keep its waste streams that contained SOIs separate from its other waste streams?

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. McKesson further objects to Request No. 26 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, McKesson has largely limited its review of documents and information to the COCs

identified by EPA. By removing any temporal limit whatsoever, as well as any nexus between COCs at McKesson's Facilities and the BAD Site, Request No. 26 seeks information relating to McKesson's Facilities that is not relevant to contamination at the Site. Without waiving its objections, McKesson responds that it has found no evidence that SOIs were constituents of any waste streams at the Union City facility, and refers EPA to its response to RFI Nos. 1 and 2.

27. Identify all removal and remedial actions conducted pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., or comparable state law; all corrective actions conducted pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; and all cleanups conducted pursuant to the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq. where (a) one of the COCs was addressed by the cleanup and (b) at which Respondent paid a portion of cleanup costs or performed work. Provide copies of all correspondence between Respondent and any federal or state government agency that (a) identifies a COC and (b) is related to one of the above-mentioned sites.

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, and unauthorized by law as unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 27 purports to seek information regarding a broad range of removal and remedial actions, corrective actions and cleanups. Moreover, identifying all such removal and remedial actions is not feasible due to incomplete records dating back to 1940, operations unrelated to the BAD Site, and products that are not "COCs" or "SOIs" as defined in the EPA RFI. By removing any temporal limit whatsoever, as well as any nexus between COCs at McKesson's Facilities and the BAD Site, Request No. 27 seeks information relating to McKesson's Facilities that is not relevant to contamination at the Site. McKesson further objects to Request No. 27 to the extent that EPA is already in possession of the requested documents, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

Without waiving its objections, McKesson refers EPA to its response to RFI No. 2, and specifically, to **Attachment B** hereto, consisting of documents concerning the environmental investigation and remediation of the Union City facility.

28. Provide all records of communication between Respondent and Bay Area Drum Company, Inc.; Meyers Drum Company; A.W. Sorich Bucket and Drum Company; Waymire Drum Company, Inc.; Waymire Drum and Barrel Company, Inc.; Bedini Barrels Inc.; Bedini Steel Drum Corp.; Bedini Drum; or any other person or entity that

owned or operated the facility located at 1212 Thomas Avenue, in the City and County of San Francisco, California.

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit whatsoever, as well as any nexus between COCs at McKesson's Facilities and the BAD Site, Request No. 28 seeks information relating to McKesson's Facilities that is not relevant to contamination at the Site. DTSC conducted an extensive investigation of the BAD Site and McKesson's operations in connection with it. DTSC's files include extensive records concerning the Bay Area Drum Company, Inc. and other persons and entities that owned or operated the facility located at 1212 Thomas Avenue, in the City and County of San Francisco, California. McKesson understands that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

Without waiving its objections, McKesson refers EPA to **Attachment E** hereto, consisting of correspondence between some of the listed entities and McKesson's Santa Fe Springs and Union City facilities.

29. Identify the time periods regarding which Respondent does not have any records regarding the SOIs that were produced, purchased, used, or stored at the Facilities.

RESPONSE:

In addition to the General Objections set forth above, McKesson objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. In responding to the RFI, McKesson has undertaken a diligent and good faith search for, and review of, documents and information in its possession, custody or control and that are relevant to this matter. Moreover, McKesson understands that EPA is already in possession of DTSC's files regarding the BAD Site. McKesson is under no further obligation to identify time periods to which these documents do not pertain.

Without waiving its objections, McKesson responds that it has not found any evidence to the effect that the SOIs were ever produced, purchased, used, or stored at the Facilities, and refers EPA to its response to RFI Nos. 1 and 2.

30. *Provide copies of all documents containing information responsive to the previous twenty-nine questions and identify the questions to which each document is responsive.*

RESPONSE:


McKesson objects to Request No. 30 insofar as it seeks information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, McKesson has largely and necessarily limited its review of documents and information to the COCs identified by EPA. McKesson further objects to Request No. 30 insofar as it seeks copies of documents already in the possession of DTSC as the result of its extensive investigation of the BAD Site and McKesson's operations in connection with it. DTSC's investigation included an information request to McKesson, and the DTSC files include McKesson's Response to DTSC's information request, among other documents. We understand that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

Without waiving its objections, McKesson refers EPA to all Attachments hereto.

Any questions EPA may have regarding the responses to these information requests may be directed to the undersigned.

Sincerely,

EDGCOMB LAW GROUP



Marilyn Jenkins
Senior Counsel